REMARKS

Claims 1-28 are pending in the application.

Claims 2-5, 8 and 12-14 have been withdrawn.

Claims 1, 6-7 and 15 have been allowed.

Claims 9-11, 16, 17, 20-24, 27 and 28 have been rejected.

Claims 18, 19, 25 and 26 have been objected to.

Claims 9-11 and 22 have been amended, as set forth herein.

Claims 2-5, 8 and 12-14 have been cancelled herein, without prejudice.

I. ALLOWABLE SUBJECT MATTER

The Examiner objected to Claims 18, 19, 25 and 26 as being dependent upon a rejected base claim, but would be allowable if it were rewritten in independent form including all the limitations of the base and intervening claims. Applicants thank the Examiner for this suggestion but elect not to rewrite Claim 18, 19, 25 and 26 at this time.

The Applicants thank the Examiner for the indication that Claims 1, 6-7, and 15 are allowable. Those claims have not been amended and therefore remain in condition for allowance.

II. OBJECTIONS TO CLAIM

The Examiner objected to Claim 22 stating that "it is not clear what applicant is trying to convey with the limitation ... [as] one skilled in the art would know that in a Rake receiver each finger corresponds to a particular delay path. Applicants respectfully submit that Figure 2 and paragraphs [0022] and [0026] of the Specification of the instant application illustrate that the finger compensator within a finger includes a plurality of delay paths. Accordingly, the Applicants respectfully request that the Claim objection be withdrawn.

III. REJECTIONS UNDER 35 U.S.C. § 103

Claims 9-11, 16, 20-22, 23, and 27-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,608,858 B1 to Sih, et al hereinafter "*Sih*" in view of U.S. Patent No. 6,888,878 to Prysby, et al, hereinafter "*Prysby*", and further in view of U.S. Patent No. 6,580,772 B2 to Pajukoski, hereinafter "*Pajukoski*". Claims 17 and 24 are rejected under U.S.C. § 103(a) as being unpatentable over *Sih* and *Prysby*, and *Pajukoski* as applied to Claims 9-11 above, and further in view of U.S. Patent No. 6,947,475 B1 to Sendonaris, et al, hereinafter *Sendonaris*. The rejections are respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142;*In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. MPEP § 2142;*In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a

reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142. In making a rejection, the examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), *viz.*, (1) the scope and content of the prior art; (2) the differences between the prior art and the claims at issue; and (3) the level of ordinary skill in the art. In addition to these factual determinations, the examiner must also provide "some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (*In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir 2006) (cited with approval in *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007)).

Currently amended independent Claims 9, 10 and 11 recite, inter alia, "wherein the finger compensator is coupled to inputs of at least two arithmetical modules in a first set of arithmetical modules and at least one finger comprises an averaging unit coupled between at least two arithmetical modules in a second set of arithmetical modules, and wherein at least one arithmetical module is common to the first and second sets of arithmetical modules."

The Applicants submit that *Sih*, *Prysby* and *Pajukoski*, alone or in combination, do not teach or suggest "wherein the finger compensator is coupled to inputs of at least two arithmetical modules in a first set of arithmetical modules and at least one finger comprises an averaging unit coupled between at least two arithmetical modules in a second set of arithmetical modules, and wherein at least one arithmetical module is common to the first and second sets of arithmetical modules." recited in Claims 9-11.

Accordingly, the Applicants respectfully request that the § 103(a) rejections of independent Claims 9-11, and their respective dependent claims, be withdrawn.

IV. CONCLUSION

As a result of the foregoing, the Applicants assert that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at ***rmccutcheon@munckcarter.com***.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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